

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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In the Matter of )  
Implementation of Section 621(a)(1) of )  
the Cable Communications Policy Act of 1984 )  
as amended by the Cable Television Consumer )  
Protection and Competition Act of 1992 )

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MB Docket No. 05-311

**COMMENTS OF THE PUBLIC CABLE TELEVISION AUTHORITY**

These Comments are filed by the Public Cable Television Authority ("PCTA"), a joint powers authority serving as the cable television franchising agency for the four California cities of Huntington Beach, Fountain Valley, Westminster, and Stanton.

The PCTA strongly supports the comments filed in this proceeding by the National League of Cities ("NLC") and the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NLC and NATOA, the PCTA and its member cities believe that local governments are capable of timely issuing fair and reasonable local competitive cable/video franchises to new entrants, just as they have for established cable services operators—provided the new entrants are willing to negotiate in good faith and not attempt to obtain unwarranted competitive advantages over incumbent cable operators. Unlike the often remote federal government or individual state governments, local governments are generally far more capable of crafting these competitive franchises in a manner addressing local needs, which can vary widely from community to community. Only harm can result from weakening local governments' traditional authority in this video franchising area.

Supporting the above positions are the following relevant facts and aspects of video franchising in the PCTA member communities.

**Cable Franchising in Our Communities**

**Community Information**

The PCTA's member cities have a combined population of over 405,000. Our franchised cable television provider is Time Warner Cable. The PCTA has maintained non-exclusive cable franchises with our current and previous providers since the early 1970s.

**Competitive Cable Systems**

Verizon, Inc. ("Verizon") has recently requested that the PCTA grant Verizon a cable franchise allowing Verizon to compete against Time Warner Cable in portions of the incumbent cable operator's current franchise area and on terms more favorable than those contained in Time Warner Cable's franchise. During the PCTA's ensuing negotiations with Verizon, the PCTA has

been mindful of California law requiring, under most circumstances, that any competitive cable franchise granted to Verizon contain provisions equivalent to those contained in Time Warner Cable's franchise. One of PCTA's primary goals in these negotiations is to facilitate the creation of an additional and equitable video franchise, fostering competition that will benefit consumers.

However, throughout our initial discussions, Verizon has refused to budge from its "one size fits all" approach to the franchising process and local community needs. Verizon has insisted on using its own franchising template document for all negotiations and has resisted language that is not identical, or highly similar to, existing agreements that it has established in communities that are substantially different than those served by the PCTA. When the PCTA suggested that time would be saved by beginning negotiations with a draft document incorporating many of the provisions in Time Warner Cable's current franchise, Verizon opted for a longer-term negotiation process based on working exclusively off Verizon's template document used in other jurisdictions.

Another example of Verizon's desire to exclude local community needs is shown in its approach to customer service standards. During our discussions, Verizon has promoted a flawed set of customer service provisions, and appears unwilling to correct these flaws and incorporate additional standards that meet the individual needs of our member communities. Among the proposed standards' shortcomings are:

- (1) The suspension of these standards' applicability to Verizon during the first six months during which Verizon provides cable service to PCTA customers—an approach of questionable legal validity.
- (2) Verizon's unwillingness to provide even one local service office within the PCTA service area holding over 405,000 residents. (In contrast, Time Warner Cable currently has one local service office within this service area and two more service centers no more than five miles from the nearest service area boundaries.)
- (3) In contravention of applicable California law prohibiting redlining (or "cherry-picking") by cable television overbuilders, Verizon objects to building its system in the entire PCTA service area, as required by the PCTA-granted cable franchise governing Time Warner Cable's operations.

### **Conclusions**

The local cable franchising process largely functions very efficiently in the member cities served by the PCTA. The PCTA ensures that the public rights-of-way are managed consistently in accordance with reasonable local requirements, that local cable operators are allowed access to these rights-of-way in a fair and nondiscriminatory manner, and that our member communities' individual needs are met.

For over thirty years, the PCTA's franchising powers have provided the means for our member communities to appropriately oversee the operations of cable service providers, consistent with advancing the public interest, and to ensure compliance with applicable laws. The PCTA, like many other local governments, has a proven record of providing excellent service to its member governments and their residents. No compelling argument supports: (a) diminishing the PCTA's cable or video franchising powers or those of other local governments; or

(b) transferring this authority or a portion of this authority to a faraway state or federal government agency that has neither the necessary local knowledge nor the ability to expeditiously address the daily problems associated with cable or other video systems.

Therefore, the PCTA respectfully requests that the Commission wisely forbear from interfering with local governments' traditional franchising authority or related regulatory authority over existing cable operators or potential or actual competitors, including that authority based on local governments' well-established police powers.

Respectfully submitted,

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